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**Subject: Standard Rules of Practice and Procedure for Weights and Measures
 Division (WMD) Personnel**

Purpose: This bulletin is issued to establish the responsibilities and duties of the position(s) of Sealer and Deputy Sealer of Weights and Measures.

Note: For the purpose of clarity and brevity, the pronouns “He” and “His” are used editorially throughout this rule and it should be interpreted as gender neutral.

General Considerations:

All Inspectional Services Department (ISD) personnel are charged with great responsibility and trust in ensuring the well being, health and safety of our citizens. Consistent, clear and efficient operational protocols are essential to ensuring that ISD fairly and effectively administers the law. A WMD employee, in carrying out the functions of ISD, shall direct his best efforts to accomplish that end intelligently and efficiently and shall hold himself in readiness at all times to respond to requests for assistance from the general public and his superiors. He shall conduct his affairs in a manner consistent with the policies of ISD and reflect the highest standards of honesty, integrity and fairness at all times when performing his official duties. He shall exercise care and good judgement in the use of official City of Boston equipment. WMD inspectors must present themselves in a professional manner at all times when performing official duties.

Article I. Public Integrity Policy

Section 1.0

It is the policy of ISD that every action of ISD as an organization, and as those of individuals, who act on its behalf, will reflect the highest standards of honesty and integrity. In all of our interactions, whether with the general public, or with each other, we will act in accordance with the ethical standards established by the City of Boston, ISD and this bulletin. It is the responsibility of ISD and its employees to prevent, detect and correct instances of misconduct, whether administrative or in violation of law or the public trust.

Section 1.1

It shall be the duty and responsibility of each and every WMD employee to become familiar with, and to conduct themselves in accordance with, the Public Integrity Policy of ISD, as stated in Commissioners Bulletin 2002 – 17, as well as Commissioner’s Bulletin 1993-03.

Article II: Division / Department Operations

Section 1.0 Chain of Command

The Assistant Commissioner/Sealer of Weights and Measures is in charge of the WMD. He shall conduct his duties pursuant with City of Boston policies as well as those prescribed in the Massachusetts General Laws. He shall be responsible for the day to day activities of the WMD, including but not limited to, the assignments of Deputy Sealers and Head Clerk, the enforcement of violations of MGL relating to weights and measures, various reports required by ISD and the Commonwealth, staff development, etc. Also, the Assistant Commissioner/Sealer of Weights and Measures shall ensure that all staff under his supervision is made aware and follow this bulletin and City of Boston policies. In the event that the Assistant Commissioner/Sealer is absent, the ISD/Field Services Deputy Commissioner or his designee shall assume these duties. The Assistant Commissioner/Sealer of Weights and Measures shall report directly to the Deputy Commissioner of Field Services and the Commissioner of ISD. Also, he shall report indirectly to the Chief of Staff, Deputy Commissioner of Buildings and Deputy Commissioner of Administration and Finance.

Section 1.1 General Duties

The duties of the Division are set forth in the Massachusetts General Laws, Chapter 6, 94 through 98, 101 and 885, with amendments and additions thereto. Generally, they state the requirements regarding the testing, sealing or condemning of all weighing and measuring devices used for buying and selling foods, wares, or merchandise for public weighing or for hire or reward. The Division also enforces Laws and Ordinances pertaining to: Giving false or insufficient weight or measures; all metering systems for fuel; gas and oil deliveries (retail and wholesale); taxi metering; proper measurement of all products sold by weight or measure; electronic check-out systems (scanners); pricing regulations; visibility of cash registers; all apothecary and jewelers scales; heavy capacity scales; all truck scales; hawkers, peddlers and transient vendors; motor fuel laws and the investigation of all complaints and prosecution of all violations of the Weights and Measures Laws and Ordinances.

Section 1.2 Certification

The Assistant Commissioner/Sealer of Weights and Measures and all Deputy Sealers of Weights and Measures shall be certified by the Commonwealth of Massachusetts, Division of Standards and shall participate in continuing education programs stipulated by the State Certification Committee as required by MGL c. 98 § 29.

Section 1.3 Inspection Procedures

All inspections, tests and code applications shall be conducted following the procedures laid out in National Institute of Standards and Technology (NIST) Handbook (s) 44, 130 and 133, NIST Publication 19 (Price Verification), applicable Commonwealth of Massachusetts Regulations (CMR) promulgated the State Division of Standards and applicable Massachusetts General Laws relating to weights and measures.

Section 1.4 Complaint Investigations

It is the duty of the WMD, generally within 24 hours, to promptly investigate every complaint brought before it by a consumer or merchant. All complaints shall be thoroughly investigated. All Deputy Sealers assigned to investigate a complaint shall submit a written report detailing the findings of his investigation and submit said report to the Sealer for his endorsement.

Section 1.5

Violations

All Deputy Sealers shall report violations of MGL (as outlined in Section 1.1 *General Duties*) to the Assistant Commissioner/Sealer or his designee, who will coordinate the appropriate action in response (Notice of Non-Compliance, Civil Citation, Administrative Hearing or Criminal Complaint).

Section 1.6a

Increased Enforcement and the Issuance of Civil Citations

It is the goal of the WMD to maintain compliance and provide equity in the marketplace. The WMD shall afford all clients due process and attempt to inform, educate and warn those found to in violation of laws under WMD statutory jurisdiction. When necessary the Assistant Commissioner/Sealer or his designee only, shall issue civil citations for violations of weights and measures law. The appropriate enforcement action shall be based on the following factors; a) compliance history with violator or at location, b) evidence of intent c) evidence of gross negligence d) verbal or physical abuse of an inspector

Section 1.6b

Appeal of Civil Citations

A person aggrieved by a citation may appeal the citation by filing a notice of appeal with the City of Boston Inspectional Services Department, Weights and Measures Division, attn: Appeals, 1010 Massachusetts Avenue, Boston, MA, 02118, within seven (7) days of the receipt of the citation. All persons filing an appeal shall be granted a hearing before the designated hearing officer of the Inspectional Services Department. All appeal hearings shall be conducted according to G. L. c. 30A and Commissioners Bulletin # 2002-2 and #2002-2A. There will be no change to the date/time of the hearing scheduled by the hearing officer. A person aggrieved by a decision of the hearing officer may file an appeal in the superior court. If a person fails to pay any civil penalty provided thereby within 21 days of the date of issuance of such violation, or within 30 days following the decision of the hearing officer if such citation has been appealed, excluding any time during which judicial review of the hearing officer's decision remains pending, the Sealer of Weights and Measures may apply for a criminal complaint against such person for the violation, or may initiate a civil action in the district court.

Section 2.0

Staff Schedule

The regular workday of the WMD for all staff is 8:00 a.m. to 4:00 p.m. Monday through Friday. The Assistant Commissioner/Sealer assigns inspections. All Deputy Sealers shall draft a "daily activity report" at the start of each workday, endorse it and submit it to the Assistant Commissioner/Sealer for his endorsement. All Deputy Sealers shall accurately complete the "daily activity report" at the end of the workday, endorse it and submit to the Assistant Commissioner/Sealer for his signature.

Section 3.0

Use of Equipment

Due to the nature of its inspection specialty, the WMD is required to employ the use of City of Boston issued equipment on a constant basis. Therefore, the WMD are bound to adhere to the "Standard Rules and Procedures for Issue, Use and Care of ISD Equipment", as set forth in "Commissioners Bulletin 2002-18". In addition, from time to time, the WMD is required to use certain specialty equipment that shall be "secured" after each use. Such equipment shall include, but not be limited to the "octane analyzer", "UPC scanner gun", and "precision weights" used for jewelry/pharmacy scale inspections and glassware.

Section 3.1 *Use of City of Boston Vehicles*

Due to the nature of its inspection specialty, the WMD uses City of Boston vehicles in all of its activities. Therefore the WMD is bound to adhere to the "Standard Rules and Procedures for Operation of Department Motor Vehicles", as set forth in "Commissioners Bulletin 2002 - 4.

Section 3.2 *Commercial Driver License (CDL)*

All Deputy Sealers required to have a CDL license shall follow all rules and procedures as outlined in the City of Boston CDL Program and its stated policy.

Section 4.0 *Referrals*

Whenever WMD staff discovers actual or potential violations/problems overseen by an another ISD Division he shall immediately report such violation/problem to his supervisor for referral.

Section 5.0 *Media Inquiries*

It is the policy of ISD to refer all media inquiries to the Commissioner's Office or the Commissioner's media designee. The purpose of this policy is to ensure one informed response that encapsulates all the pertinent facts involved in an issue of media interest and also to limit the potential claim of legal liability of unintended misstatements by those solicited.

Section 6.0 *Safety*

Deputy Sealers shall consider safety precaution in every inspection. Deputy Sealers shall notify his supervisor if any safety equipment is needed or in need of repair.

Article III Standard Rules of Practice and Procedure for Weights and Measures Inspectors

Section 1.0 *Scheduling of Inspections*

Deputy Sealers, when assigned inspections by district or discipline, shall schedule those inspections in an efficient manner, taking into account the travel, size and scope of the inspection planned. Deputy Sealers shall be prepared with alternative inspection "stops" if circumstances warrant a deviation from his daily schedule.

Section 1.1 *Compliance Inspections-Devices*

When conducting annual compliance inspections of weighing and measuring devices, Deputy Sealers shall be aware and diligent in inspecting all aspects of their weights and measures jurisdiction at the location, i.e. pricing, net weight, cash register visibility and motor fuel laws. Whereas, since many compliance inspections generally take place once a calendar year, it is imperative that Deputy Sealers verify that all responsibilities under their jurisdiction are in compliance. When assigned to districts, Deputy Sealers shall be aware to investigate any new or unfamiliar establishments for usage of any weighing or measuring device or any law/regulation under their weights and measures regulatory control. Deputy Sealers should note any device rejected which requires a possible re-inspection. Deputy Sealers shall be responsible to follow-up on inspections they performed without supervision.

Section 1.2

Compliance Inspections-Laws and Regulations

When conducting any compliance inspection of weights and measures laws and regulations, Deputy Sealers shall also be aware and diligent in inspecting all aspects of their weights and measures jurisdiction at the location, i.e. cash register visibility, new devices and store notice posting requirements. When inspecting "home heating oil" deliveries, Deputy Sealers shall collect all pertinent information required.

Section 1.3

Inspection Reports

All required inspection reports shall be accurately completed. Billing and contact information is critical to accurately managing the operation of the WMD. Particular care shall be given to completing all reports in timely manner at the conclusion of the workday. Inspectors are encouraged to log and maintain notes of locations requiring a re-inspection or any other follow-up action.

Section 2.0

Conduct of Inspections

A Deputy Sealer shall professionally present himself during every inspection. Deputy Sealers are representing the City of Boston, ISD and the WMD.

Section 2.1

Participation of owner/ manager during inspection

Deputy Sealers are encouraged to educate owner/managers as to scope of the inspection(s) being performed. At the very least, Deputy Sealers shall inform the owner/manager of the result(s) of his inspection.

Section 2.2

Presenting Identification

Deputy Sealers shall always be in possession of their official identification and present that identification prior to every inspection. Lost or missing identification must be reported immediately to a supervisor. Massport identification (Logan Airport Security Access) shall always be kept secure.

Section 2.3

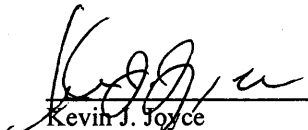
Foreign Language Interpretation

The City of Boston possesses many diverse populations. It is the policy of this department to respect the diversity encountered in our neighborhoods. If, upon the course of any inspection, an interpreter is needed or requested, it is the duty of the Deputy Sealer to request from his supervisor to arrange for an interpreter.

Section 2.4

Confiscation of Weighing and Measuring Devices

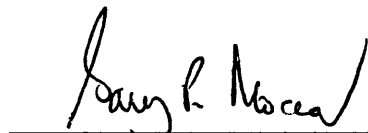
Massachusetts Law that provides for the confiscation of weighing and measuring devices without a warrant, being use as evidence in criminal complaints. Therefore the WMD is bound to adhere to the "Standard Rules and Procedures for the Embargo and Handling of Property", as set forth in "Commissioners Bulletin 2002 - 15.



Kevin J. Joyce

Commissioner

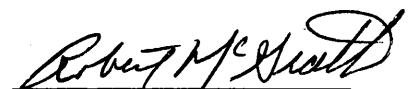
Date: 10.17.02.



Gary P. Moccia

Assistant Commissioner

Date:



Robert McGrath

Assistant Commissioner

Weights and Measures Division

Date: